

# Department of Marine Resources

## NOTICE OF AGENCY RULE-MAKING PROPOSAL

**RULE TITLE:** Chapter 90.20(1) Hancock County; Taunton Bay Management Area  
(Hancock, Sullivan, and Franklin)

**CONCISE SUMMARY:**

These proposed regulations would create a pilot program for a localized resource management area within Taunton Bay. In accordance with the Report to the Joint Standing Committee on Marine Resources of the 123<sup>rd</sup> Maine Legislature on a Comprehensive Resource Management Plan for Taunton Bay, Maine, January 12, 2007, (Report) the Commissioner appointed individual citizens from principal user groups to form the Taunton Bay Advisory Group who formed recommendations towards these rules. A copy of this report is available on the web at:

<http://www.maine.gov/dmr/council/tauntonbay/index.htm>

This rule would define the boundaries of the management area within which harvesters of mussels, scallops, urchin and kelp would share stewardship responsibilities with the Department. Eligibility would be determined by license holders who notify the Department in writing by a set deadline and participate in a mandatory stewardship pre-harvest meeting to identify harvest areas and allocations that avoid conflict between harvesters and non-harvested sensitive resources. The final plan would be approved by the Commissioner and the DMR Advisory Council in accordance with 12 MRSA §6171(2-A). Harvesters would be required to report trip level data including by-catch except for kelp harvest. The proposed project would sunset December 31, 2009 or if found to be inefficient or impractical it may be repealed by the Commissioner, in consultation with the Taunton Bay Advisory Group, prior to the sunset.

**STATUTORY AUTHORITY:** 12 M.R.S.A. §6171 and §6171(2-A)

**PUBLIC HEARING:** April 22, 2006, 6:00 p.m.; Franklin Community Center, 34 Main Street, Franklin

**DEADLINE FOR COMMENTS:** May 2, 2008

**AGENCY CONTACT PERSON:** John Sowles (tel: 207-633-9518)

**Mail Written Comments to:** Department of Marine Resources, attn: L. Churchill

**ADDRESS:** PO Box 8, West Boothbay Harbor, Maine 04575-0008

**WEB SITE:** <http://www.maine.gov/dmr/rulemaking/>

**TELEPHONE:** (207) 633-9584

**FAX:** (207) 633-9579

**TTY:** (207) 633-9500 (Deaf/Hard of Hearing)

**Hearing facilities:** If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

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**Additional Information: Below is a summary analysis by section of the proposed rules:**

Chapter 90.20 Conservation Areas in Hancock County

90.20(1)(A) Describes the boundaries of the management area.

90.20(1)(B) The restrictions for this area apply only to mussels, scallops, urchin and kelp. Other species such as lobsters, clams, finfish, worms and rockweed are intentionally omitted.

90.20(1)(B)(1) Eligibility is established by the harvester by simply notifying the Department, in writing, of their intention to harvest one of the four resources (mussels, scallops, urchin or kelp) by a deadline set by the Department.

90.20(1)(B)(2) This pilot management project expects participation by harvesters of Taunton Bay. To ensure participation, harvesters must identify themselves as interested in Taunton Bay resources by notifying the Department of their intent (above). At the beginning of each season (year), the Department would establish a maximum harvest limit for each of the four resources and provide maps of known sensitive marine resources and uses. The eligible harvesters would then meet as a group to agree on a harvest plan and allocate the available resource amongst the harvesters. Once all harvester groups have agreed to a plan, all four groups would meet at a public meeting and present their plans to the Department, Taunton Bay Advisory Group, and public to ensure that the combined plans avoided conflicts between other harvesters, other commercial resources and known sensitive non-commercial resources. Following that public meeting, the plan would be presented to the Commissioner and the DMR Advisory Council for approval. Once approved, each harvester would receive an endorsement on their respective license.

This rule would sunset December 31, 2009 or if found ineffective or impractical toward achieving the intended goal of the comprehensive resource management plan the Commissioner may repeal the rule. The sunset provision ensures that the process is examined, discussed and becomes an opportunity for improvement.

90.20(1)(C) Monthly trip level reporting for the four resource groups will be mandatory. To avoid duplication of effort by harvesters, the Department will provide forms that would fulfill the needs of the existing Landings Program as well as enhance our knowledge of Taunton Bay. Four additional questions will be asked in order to estimate resource stocks and general health of the bay. Report forms and detailed instructions on how to fill out the reporting forms, will be provided by the Department. Paper or electronic submission will be accepted and by choice of the harvester.

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**Proposed rulemaking – see underlined text below:**

Chapter 90 - Conservation Areas

90.20 Hancock County

1. Taunton Bay Management Area (Hancock, Sullivan, and Franklin)

A. Description

All territorial waters north of the Hancock – Sullivan Falls inland of a line that describes the shortest distance at mean high water between Hancock Point in the Town of Hancock and Falls Point in the Town of Sullivan.

B. Restrictions and Compliance

It shall be unlawful to take possess, harvest, land, by any method, mussels, scallops, urchin or kelp (from the order Laminariales) within the Taunton Bay Management Area, except as follows:

(1) Eligibility

To be eligible to fish within the Taunton Bay Management Area (TBMA), any harvester of mussels, scallops, urchins or kelp shall notify the Commissioner, in writing (separate from the harvester application forms) on or before December 1<sup>st</sup>, which of these four harvest categories they intend to harvest in the upcoming year. In 2008, notification must be prior to July 1, 2008.

(2) Stewardship Requirement on Harvest Plans, Resource Allocations and License Endorsement

The maximum amount of harvest available shall be established by the Department. The eligible harvesters shall participate in a mandatory pre-harvest meeting during which the amounts, areas and harvester allocations (harvest plan) for mussels, scallops, urchins and kelp from the TBMA will be proposed by the eligible harvesters. Harvest plans shall demonstrate that they avoid, to the extent practicable, adversely disturbing sensitive non-targeted marine resources and uses of the bay, based on information provided by the Department, and that harvests are sustainable. The eligible harvesters shall schedule this meeting to be held annually following application deadline for eligibility and report their harvest plan to the Commissioner.

Following receipt of the proposed harvest plan by the Commissioner, a public hearing shall be held pursuant to 12 M.R.S.A. §6171 (2-A) at which one representative from each of the four harvester groups, Department staff and the Commissioner's Taunton Bay Advisory Group will recommend an annual harvest plan for Taunton Bay for approval by the Commissioner and the DMR Advisory Council. The Commissioner may appoint a third party to mediate unresolved disputes regarding establishment of the harvest plans.

Persons eligible to harvest in accordance with the established harvest plans shall receive an endorsement on their respective license(s). The endorsement must be applied to the respective license by DMR personnel. This endorsement does not exempt the license holder from all other applicable laws and regulations pertaining to the species taken. Possession of mussels, scallops, urchins or kelp by a harvester whose license does not have an endorsement shall be prima facie evidence of a violation of these regulations.

These regulations sunset December 31, 2009. In the event the Commissioner finds, after consultation with the Taunton Bay Advisory Group, that implementation of this rule is ineffective or impractical toward achieving the intended goal of the comprehensive resource management plan (Report to the Joint Standing Committee on Marine Resources of the 123<sup>rd</sup> Maine Legislature on a Comprehensive Resource Management Plan for Taunton Bay, Maine. January 12, 2007), he may suspend these regulations before the sunset date.

Harvest of shellstock (including mussels) is prohibited in areas that are closed due to marine biotoxins pursuant to Chapter 96 and bacterial pollution pursuant to Chapter 95, and in those areas that may be closed by the Department. For details about closure lines contact Marine Patrol Division II, east of Port

Clyde, Tel. (207) 667-3373, or telephone the Shellfish Sanitation Hotline at 1-800-232-4733 or on the web at: <http://www.maine.gov/dmr/shellfish%20sanitation%20hot%20line.htm>.

## C. Reporting Requirements

### (1) Compliance

Any harvester of mussels, scallops, urchins or kelp eligible to fish in the Taunton Bay Management Area (TBMA) must comply with reporting requirements. Data collected pursuant to this Chapter and Chapter 8 is subject to the confidentiality provisions of 12 M.R.S.A. §6173 and DMR regulations Chapter 5. Failure to comply with these reporting requirements may result in the denial for renewal of a license or permit in accordance with 12 M.R.S.A. §6173(2). Any misrepresentation of information in connection with the reporting requirements of this chapter shall be a violation of this rule. All data and reports shall be submitted to the Department of Marine Resources (DMR), Habitat Division/John Sowles, P.O. Box 8, West Boothbay Harbor, Maine 04575-0008; telephone: (207) 633-9500; fax: (207) 633-9579.

All data and reports shall be submitted to the Department by the 10<sup>th</sup> day of the following month; for example, reports for the month of January must be submitted in time for the report to arrive at the Department by February 10<sup>th</sup>, unless otherwise noted.

### (2) Reporting

Any harvester of mussels, scallops, urchins or kelp eligible to fish in the TBMA is required to report daily fishing activity and landings on forms supplied by the Department. No fishing activity will be reported as "did not fish" on the forms. Harvesters of kelp shall comply with the reporting requirements established in Chapter 8.20(C) and indicate location of harvest on a chart provided by the Department. Harvesters of mussels, urchins and scallops shall comply with the reporting data elements in this section. Future eligibility will be dependent upon reporting compliance.

All data sent to DMR must be legible, coherent and in conformance with DMR specified standards. The following data elements must be reported to the DMR on approved paper forms or through approved electronic reporting mechanisms.

1. Harvester name (as it appears on the harvesting license) and license number
2. Boat name and hull ID
3. Designate negative report period if no harvesting activity occurred
4. Date fished
5. Number of crew
6. Gear fished
7. Quantity and size of gear
8. Number of sets
9. Hours at sea
10. Fishing time
11. Latitude/longitude or location of harvest area drawn on chart
12. Quantity of resource harvested
13. Port landed
14. Disposition or dealer sold to
15. Bycatch designated by the Department by type and amount
16. Percent undersized catch
17. Percent oversized catch
18. Signature, written or electronic